

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (22-038)**

**Subject**

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXX of the Constitution of Missouri. (Received June 2, 2021)

**Date**

June 22, 2021

**Description**

This proposal would amend Article XXX of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

**Public comments and other input**

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, the **St. Louis County Board of Elections**, the **Board of Election Commissioners City of St. Louis**, the **Kansas City Board of Election Commissioners**, the **Platte County Board of Elections**, the **Jackson County Election Board**, and the **Clay County Board of Election Commissioners**.

## Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated minimal to no fiscal impact.

Section 6(a) introduces the penalty for voting twice or more, voting by non-citizens, voting for a deceased person and voting in another person's name as a treason. In Missouri, penalty for treason is sentenced as not less than 10 years and not more than 30 years' imprisonment (eligible for parole after serving one-half of sentence) or life imprisonment (eligible for parole after serving 30 years). However, such penalty for election crimes is very infrequent to non-existent and their department has no data about offenders of this crime, thus they assume minimal to no impact by this change.

Section 6 (b), (c), (d), and (e) introduce new election offenses as a class III felony, for denying observers, destroying or misplacing ballots, failing to report results, and adjudicating ballots. In Missouri, the felony offenses are classified as Class A, B, C, D, or E. However, Class III election offenses in Missouri, under section 115.635, are

misdeemeanor offenses. Nevertheless, election offenses are generally quite infrequent in Missouri and their department does not have any offender charged for felony election offense in fiscal year (FY) 2021. Hence, their department assumes minimal to no impact on offenders population by changes in this section.

Officials from the **Department of Labor and Industrial Relations** indicated:

Pursuant to Chapter 115, RSMo, the Missouri Secretary of State currently oversees the conduct of elections within the State of Missouri.

In addition to the MO Secretary of State, this could potentially impact the MO Attorney General's Office (enforcement). There is the potential, though unlikely, that this petition could impact the Department of Labor and Industrial Relation's State Board of Mediation (SBM).

Unlikely but potential impact: the petition states that internet connectivity shall be discontinued at any polling place on election days. Small businesses that are adjacent to polling places could potentially experience internet disruption, which would impact what/how much work could be performed on election days.

Article XXX, Section 1 of the petition provides that no voting machine may be utilized "in any election to count or calculate votes" and that "all votes shall be counted by hand by the judgment of the human eye." Although unlikely, this petition could potentially have an adverse impact on the SBM.

The SBM is a quasi-judicial board that administers the Public Sector Labor Law (Sections 105.500 -105.598, RSMo), which covers most public sector employees who seek union representation. The board defines an appropriate bargaining unit of employees based on whether or not they share a community of interest and, if certified, determines majority representation status by conducting a secret ballot election. SBM jurisdiction includes all counties, cities, school districts, special districts, and departments of state government, with a few exceptions.

When read in its entirety, the petition appears to address registered voters who participate in elections for municipal, county, state, and federal offices. Read in this context, there is no impact to the work of the SBM. However, in the event that Article XXX, Section 1 could be read so broadly that it would apply to *any election*, the SBM would need to be prepared to certify in-person, non-electronic elections for public employees seeking bargaining representation. This could impact the number of employees assigned to SBM (currently, there are two FTE (full-time equivalents)), as well as expenditures for travel, meals, and lodging throughout Missouri to observe and certify such elections.

Officials from the **Department of Revenue** indicated no impact.

This proposed language in Section 2 and Section 3 in relation to identification requirements is very restrictive to state issued documents and does not allow for use of documents issued

by the United States including, but not limited to documents such as a valid passport or valid military identification card. This will result in an unknown increase in driver license and nondriver license issuance.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to election regulations should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact. They presume proceedings required under Section 4 (b) will be held in regular session, or special sessions where the cost of which will be absorbed.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no direct fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to election regulations should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this amendment requires that all future elections in Missouri use paper ballots only, and that all ballots be counted by hand within four hours of the polls closing. Such a requirement will necessitate increased numbers of election judges to assist in the counting process. This is a new responsibility that must be provided for under Article X, Section 21 of the Missouri Constitution.

At the November 2020 general election, at least 3,025,962 ballots were cast statewide. Their assumption is that it will require two teams of judges to process ballots at a rate of one ballot every five minutes (one team to handle and read the ballot, one team to record the votes). Based on this estimation, it would take the equivalent of 126,100 four-hour team shifts to count all ballots. Since there are two judges in each team (one from each major party), this equates to 126,100 judge-days to be paid at an average cost of \$125 per election judge (previously obtained by surveying a sample of local election authorities). This process would incur a cost of up to \$15,762,500 per election.

If this amendment is passed, this cost would be fully incurred at least once in fiscal year FY23 (April 2023), twice in FY24 (March 2024, April 2024), and three times in FY25 (August 2024, November 2024, April 2025) for a minimum three-year cost of \$94,575,000. There would also be additional partially-incurred costs to cover costs of elections outside of the normally-scheduled primary, general, and municipal elections (such as special elections or municipal elections in charter cities/counties). The exact scope of such potential expense is unknown.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following fiscal impact as a result of this initiative:

*Board of Election Cost Savings—*

- Savings of ~\$50,000 per year for servicing voting machines
- Costs of ~\$2,000 per year in extra training to count votes
- Savings of ~\$130,000 per year in voting machines capital outlay
- Net savings of ~\$178,000 per year

*Election Costs—*

- ~\$120,000 in costs for more poll workers and ballot counters for even year primary and general elections combined
- ~\$50,000 in Sheriff Deputy OT
- Net costs of ~\$170,000 per even election year

The County would only need staff costs for even year elections of primaries and the general.

Officials from **Greene County** indicated:

<b>Initiative petition 22-038 proposing to amend Article XXX Estimated Costs</b>	
<b>Ballot Tabulation by Hand</b>	<b>\$50,243.00</b>
<b>Law Enforcement</b>	<b>\$52,974.00</b>
<b>Internet Monitor</b>	<b>\$14,337.00</b>
<b>Reduced Absentee Period</b>	<b>-\$12,261.00</b>
<b>Logic &amp; Accuracy Test Savings</b>	<b>-\$3,100.00</b>
<b>Election Judge Costs Increase</b>	<b>\$166,930.00</b>
<b>Ballot Tabulation by Hand</b>	<b>\$3,668.00</b>
<b>DS200 &amp; Electronic Tabulation Savings</b>	<b>-\$12,878.00</b>
<b>PollPad Deployment Increase</b>	<b>\$10,440.00</b>
<b>Total Estimated Cost</b>	<b>\$270,353.00</b>

An explanation of the costs is detailed here as well:

**1. Hand tabulation of ballots: 50,243.00**

- a. This is estimated based off a four hour pay increase of all 745 election judges that would be working on election day.
- b. This does not include absentee or any standard election night costs.

**2. Law enforcement personnel stationed at each polling location: 52,974.00**

- a. This is one person at each polling location that was used in the November 2020 Election, with additional compensation for the extra four hours of operation as proposed in the petition.

**3. One person per polling location to monitor no internet access: 14,337.00**

**4. Potential savings from absentee voting being reduced to a 2-week period: 12,261.00**

**5. Potential savings from Logic and Accuracy Testing: 3,100.00**

**6. Potential increases of election Judges due to a smaller absentee voting period: 166,930.00**

- a. This calculation is based off of the amount of election judges increasing from 624 to 745.

**7. Hand tabulation of absentee and mail-in ballots increase: 3,668.00**

- a. In November 3, 2020 Election, the office employed six election judges on election day.

**8. DS200 (computer system) and Electronic Tabulation Savings: 12,878.00**

**9. PollPad (computer system) Deployment Increase due to a smaller absentee voting period: 10,440.00**

**Total cost increase of petition 22-038: 270,353**

Please note these are costs per general election. This was listed as a sample of what it would do for one election, as there are a different amount of elections depending on the year.

Officials from the **City of Kansas City** indicated this amendment if approved would likely have a negative fiscal impact on their city in an indeterminate amount because the increased costs to their county election boards would be passed on to Kansas City.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they estimate this initiative petition would have the following impact on their office (per election).

"Yes" Impact

Breakdown:

- \$24 million – To hire ballot counters to count Election Day ballots in 4 Hours.  
800 Election workers per polling place  
300 Polling Places  
240,000 Workers per election  
960,000 Hours @ \$25 per hour = **\$24 million**
- \$1.5 million – To train poll workers  
60,000 workers @ \$25 per hour = **\$1.5 million**
- \$555,000 – To hire workers to count Absentee Ballots  
22,200 Hours @ \$25 per hour = **\$555,000**
- \$194,300 – To hire security/officers for Election Day security  
\$36 per hour x 18 hours = \$648.00  
300 Polling Places = **\$194,400**

Total Estimated Cost Per Election: **\$26.249 Million**

Their November ballot has had over 50 races in 2018 and 2020. With the usual high turnout (79%), if they have to count each one by hand in four hours, they need this many people. To be honest, they do not have space in most of their polling places for 200 much less 800 people.

Officials from the **Board of Election Commissioners City of St. Louis** indicated:

This petition proposes, among others, the following changes:

1. All ballots will be counted by hand and human eye;
2. Ballots will be counted, tabulated and reported at the place where the ballots are cast;  
and
3. All ballots are to be counted and reported within four hours of the polling places closing.

In November of 2020, at the General Election, a total of 134,886 votes were cast. A team at the St. Louis City Election Board simulated the experience of a bi-partisan team counting a ballot; in an ideal environment, it took the team 140 seconds to count and verify each race on the ballot. Therefore to count all ballots last November it would have taken 18,884,040 seconds, or 314,734 minutes, or 5,246 hours, which divided by 4 (the hours

allocated by the petition for counting) meant they would need at a minimum 1311 teams counting feverishly and perfectly, like machines, if you will, to even come close to accomplishing this task. 1311 teams translates to 2622 people. If you paid 2622 people 15 dollars an hour for 4 hours of work, this would come to \$157,367. In reality, however, given no shows, the need for teams of judges to address voter intent on poorly marked ballots, you would need double the amount of people, therefore 5244, people for a total of \$314,734.

This is the cost of labor alone. The impact on the ability to use many of the 99 polling places we currently use is almost impossible to determine; i.e., whether many of these places would be willing to participate in this endeavor, whether they have the space to house the number of teams necessary to count, etc.

votes cast	134,886
seconds per count each vote	140
total seconds to count all votes	18,884,040
total minutes to count all votes	314,734
total hours to count all votes	5,246
teams needed to count all votes	1,311
total people need to count all votes	2,622
cost at 15 per hour for one hour of counting	39,342
cost for 4 hours	157,367

Officials from the **Platte County Board of Elections** indicated the constitutional changes proposed by this petition are physically impossible to comply with and clearly undemocratic. This is not a serious proposal.

Officials from the **Clay County Board of Election Commissioners** indicated many parts of this proposal to amend the Missouri Constitution would be impossible to enact in their county and most other jurisdictions. It also violates Federal legislation. They would lose many polling locations and poll workers if these were enacted not to mention voters disenfranchised. The cost is immeasurable.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, the Kansas City Board of Election Commissioners, and the Jackson County Election Board.**



## **Fiscal Note Summary**

State and local governments estimate ongoing election-related costs of at least \$2,000 annually and at least \$16 million per election, but the total cost is unknown. Local governments estimate savings of at least \$180,000 annually and at least \$28,000 for each general election.